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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,140

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Fabien Divo

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YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

EXAMINER

MERLINO, AMANDA H

ART UNIT

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2877

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,140	Applicant(s) DIVO ET AL.	
	Examiner AMANDA H. MERLINO	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-11 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 3,6 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

Claims 1 – 19 are objected to for the following informalities:

The element numbers in the parentheses in the claims should be deleted. The element numbers do not add anything toward patentability in the claims.

Claims 5, 7, and 11 are objected to because of the following informalities:

- a) on line 2 of claim 5, “said polarizing filter” lacks antecedent basis;
- b) on line 2 of claim 7, “said first and second illumination means” lack antecedent basis;
- c) one line 3 of claim 11, “the downstream polarizing filter” lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-5, and 16-19 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fujeda (5,307,141).

With regard to claims 1 and 5, Fujeda teach of a device for automatically detecting markings of an ophthalmic lens (1) in accordance with figures 1 and 5, the device comprising a support (20) adapted to receive said lens (1); and, on either side of said support (20), firstly first illumination means (23) for illuminating the ophthalmic lens

(2) installed on said support (20), and secondly first acquisition and analysis means (24) for acquiring and analyzing the light transmitted through said lens (1), the device being characterized in that it includes an activatable and deactivatable pattern filter (7) between said first illumination means (23) and said support (20) .

With regard to claim 2, the first acquisition and analysis means (124) are suitable for processing the signal output by the activated pattern filter (7) in order to determine the positions of permanent markings of the ophthalmic lens.

With regard to claim 4-5, said pattern filters are formed by a liquid crystal screen (see lines 60-63 of column 2 of the specification).

With regard to claims 16-19, Fujieda teach of a target mark for aligning the lens on the support wherein the mark is displayed as a shadow on the first acquisition and analysis means (24) wherein the marks are polygonal, circular or cruciform.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7- 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Fujieda (5,307,141) in view of Levecq et al (2003/0015649).

Fujieda teach of a device for automatically detecting markings of an ophthalmic lens (1) in accordance with figures 1 and 5, the device comprising a support (20)

adapted to receive said lens (1); and, on either side of said support (20), firstly first illumination means (23) for illuminating the ophthalmic lens (2) installed on said support (20), and secondly first acquisition and analysis means (24) for acquiring and analyzing the light transmitted through said lens (1), the device being characterized in that it includes an activatable and deactivatable pattern filter (7) between said first illumination means (23) and said support (20) .

With regard to claims 7-8, Fujieda lacks the teaching of a second illumination means adapted to illuminate the lens at grazing incidence.

Levecq et al teach of a switchable illumination means adapted to illuminate the lens at grazing incidence (paragraphs 45 and 70).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to implement a switchable illumination means to detected transmitted light at a grazing incidence into Fujieda's device as taught by Levecq et al for the specific reasons given by Thepot which is that it would improve the detection of markings on a mineral material lens which would increase the accuracy of the device.

With regards to claim 9, Fujieda lacks the teaching of the acquisition and analysis means being a digital camera. It would have been an obvious matter of design choice to replace Fujieda's optical detector with a digital camera, since applicant has not disclosed that using a digital camera solves any stated problem, has any specific benefit, or is for any particular purpose and it appears that the invention would perform equally well as a functional equivalent with Fujieda's optical detector.

With regard to claims 10-11, Fujeda teaches of an image processor means and a means for displaying the processed signal.

Reasons for Allowance

Claims 3, 6 and 12-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 3 and 6, the prior of record, taken alone or in combination, fails to disclose or render obvious a device for automatically detecting markings of an ophthalmic lens including two polarizing filters, one disposed between said first illumination means and said support and the other disposed between said support and said first acquisition and analysis means, in combination with the rest of the limitations of claim 3.

As to claims 12-15, the prior of record, taken alone or in combination, fails to disclose or render obvious a device for automatically detecting markings of an ophthalmic lens characterized in that it has a frontofocometer including firstly third illuminating means disposed laterally relative to said first illumination means and adapted to generate a light beam directed onto an ophthalmic lens installed on said support positioned facing said third illuminating means, and secondly second acquisition and analysis means for acquiring and analyzing the light beam transmitted through said lens installed on said support, in combination with the rest of the limitations of claim 12.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda H Merlino whose telephone number is 571-272-2421. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J Toatley, Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda H Merlino /A. H. M./ Patent Examiner Art Unit 2877 June 19, 2008	/Gregory J. Toatley, Jr./ Supervisory Patent Examiner, Art Unit 2877 23 June 08
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